

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF EMPIRE STATE CARPENTERS
ANNUITY, APPRENTICESHIP,
LABOR-MANAGEMENT COOPERATION,
PENSION AND WELFARE FUNDS,

Plaintiff,

-against-

MEMORANDUM & ORDER
13-CV-6116 (JS) (GRB)

KND CONSTRUCTION CORP.,
KRILL CONTRACTING, and
NEW GRANGE CONTRACTING CORP.,

Defendants.

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APPEARANCES

For Plaintiff: Charles R. Virginia, Esq.
Richard B. Epstein, Esq.
Elina Burke, Esq.
Michael Howard Isaac, Esq.
Virginia & Ambinder, LLP
40 Broad Street, 7th Floor
New York, NY 10004

For Defendants: No appearance

SEYBERT, District Judge:

Pending before the Court is Magistrate Judge Gary R. Brown's Report and Recommendation ("R&R"), recommending that this Court enter default judgment against defendants KND Construction Corp. ("KND"), Krill Contracting, and New Grange Contracting Corp. (collectively, "Defendants") and award damages, attorneys' fees, and costs totaling \$1,058,246.30. (R&R, Docket Entry 48.) For the following reasons, the Court ADOPTS Judge Brown's R&R in its entirety.

BACKGROUND

This action was commenced on November 4, 2013 by plaintiffs Trustees of Empire State Carpenters Annuity, Apprenticeship, Labor-Management Cooperation, Pension and Welfare Funds ("Plaintiffs" or the "Funds"). Plaintiffs, employer and employee trustees of multiemployer labor-management trust funds and a labor management cooperation committee, allege that KND failed to make periodic contributions to the Funds in contravention of a collective bargaining agreement. (Compl., Docket Entry 1, ¶¶ 4-5, 19, 22.) Plaintiffs further allege that Defendants are alter egos and/or successors of each other that are "jointly and severally liable for KND's and/or each other's obligations under the [collective bargaining agreement]" (Compl. ¶ 25.)

On July 2, 2015, Plaintiffs moved for a default judgment. (Docket Entry 42.) On September 14, 2015, the undersigned referred Plaintiffs' motion to Judge Brown for an R&R on whether the motion should be granted. (Docket Entry 47.) On February 26, 2016, Judge Brown issued his R&R recommending that the Court grant Plaintiffs' motion for default judgment and award damages in the sum of \$1,050,559.30; attorney's fees in the sum of \$7,083.17; and costs in the sum of \$603.94. (R&R at 2-3.)

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and

recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the “court need only satisfy itself that there is no clear error on the face of the record.” Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted). Objections were due within fourteen days of service of the R&R.

The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived. Upon careful review and consideration, the Court finds Judge Brown’s R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

CONCLUSION

Judge Brown’s R&R (Docket Entry 48) is ADOPTED in its entirety. The Clerk of the Court is directed to enter judgment in favor of Plaintiffs and against Defendants in the amount of \$1,058,246.30. Plaintiffs are directed to serve a copy of this Memorandum & Order on Defendants and file proof of service on ECF. The Clerk of the Court is further directed to mark this matter CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: March 23, 2016
Central Islip, New York